IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1750 OF 2006

Shri Ramsukh Santokiram Chandak
Charitable Trust ..Petitioner.

Vs.

The Charity Commissioner,
Maharashtra State, Mumbai
& Ors. ..Respondents.

Mr.G.S.Godbole for the Petitioner.
Mrs.Mhaispurkar, A.G.P. for the Respondents.

CORAM : S.J. VAZIFDAR, J.
DATED : 11TH JANUARY, 2007

P.C. :

Notice for final hearing of this petition was issued in view of the obvious urgency. The trust has obtained an exemption order under section 20 of The Urban Land (Ceiling & Regulation) Act, 1976.

2. As I intend remanding the matter to the learned Joint Charity Commissioner for re-consideration, it is not necessary to set out the facts in detail. The trust is the owner of the property, a substantial portion whereof has been declared as excess vacant land. It is in respect of that part of the land which has been so declared as excess

vacant land that the exemption order under section 20 has been issued in favour of the trust. Pursuant thereto, the trust had entered into an agreement with a third party for development of the said land for a consideration of Rs.31,00,000/-. The trust thereafter sought approval under section 36 of the Bombay Public Trusts Act 1950. The same has been rejected. The present petition challenges the said order.

3. The learned Joint Charity Commissioner has held that the consideration of Rs.31,000/- is less than the market consideration, inter-alia in view of the ready reckoner and in view of what is stated in the Petitioner's application itself. However, two things are clear in this regard. Firstly, the Petitioner has set out in detail inter-alia in paragraph 6/7 of the application, the reasons why the said property will not fetch the market value. These facts have not been considered in the impugned order.

4. Even assuming that the price specified in the ready reckoner is correct surely the Petitioner was entitled to indicate/establish the factors which would depict the price. These are relevant factors

which ought to have been taken into consideration. On a remand the Joint Charity Commissioner is requested to consider the said facts, as also any other facts the Petitioner may rely upon.

5. An important factor which ought to be considered is the consequence of refusal of approval under section 36. According to the Petitioner, in the event of refusal of the approval, the Petitioner will be entitled to only a nominal compensation in accordance with the provisions of the Urban Land (Ceiling & Regulation) Act, 1976. This is because if the approval is refused, the permission under section 20 would also come to an end.

6. In the impugned order, it is held that the Petitioner did not indicate how the price of Rs.80,000/- was arrived at. Mr.Godbole submitted that the same is calculated as per section 11 of the Urban Land (Ceiling & Regulation) Act, 1976. On remand, this aspect shall also be considered. The ultimate idea is to ensure that the trust is not deprived of the benefit or any advantage that it may have gained, including under the exemption order.

7. It is made clear that the Joint Charity

Commissioner shall be at liberty while re-hearing the matter, to invite fresh bids in such manner as he deems proper for ascertaining the correct market value. To this end, he is also at liberty to enquire from the earlier bidders whether they are willing to raise their bids. The Petitioner is also at liberty to obtain fresh quotations.

8. In the circumstances, the impugned order is set aside.

9. The Joint Charity Commissioner shall consider the application under section 36 afresh, after considering, inter-alia, the above aspects.

10. In view of the urgency, the Joint Charity Commissioner is requested to dispose of the application as early as possible and preferably within two months from the date of the receipt of this order.

11. Writ Petition is disposed of accordingly.

All parties are requested to act on an ordinary copy of this order duly authenticated by the Sheristedar/Personal Assistant.